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May 27, 2021

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OF COUNSEL: RAYMOND SAYEG

VIA EMAIL

Christian Klein, Chairperson
Arlington Zoning Board of Appeals
51 Grove Street
Arlington, MA 02476

Re: 1165R Massachusetts Avenue Wetlands/Resource Area Regulatory
Peer Review Updated Letter

Dear Chairperson Klein:

I submit this response on behalf of the applicant, 1165R Mass MA Property LLC, for a comprehensive permit for the above-referenced property to the April 13, 2021 updated response of BETA Group, Inc. (hereinafter referred to as the "Applicant", the "Permit", the "Property" and "BETA", respectively). The Applicant had previously addressed the updated comments at the April 13, 2021 meeting of the Arlington Zoning Board of Appeals (hereinafter referred to as the "Board"). This letter is intended to memorialize the information previously provided and to provide additional information.

Item Number 3:

BETA Recommendations:

- (a) Planting plans should be updated to include species suitable for upland Riverfront Area. Ryder Brook is an intermittent stream and, therefore, will not receive flow year round. Plant section *(sic)* should consider the soil moisture needs of the species and should consider resiliency. The plant species selected are those that need the groundwater to be at or near the ground surface during the growing season.
- (b) Provide a proposed monitoring protocol to document establishment of the restoration area, including invasive species control.
- (c) Evaluate opportunities to improve the Riverfront area within Area #1 (Ryder Street). Potential improvements could include stormwater management improvements such as installation of deep sump catch basins or water quality units.

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Response:

(a) The Applicant has submitted to the Conservation Commission a detailed and updated planting plan that includes species suitable for the upland Riverfront Area.

The Applicant's landscape architect has reviewed the proposed plant species for the proposed swale and confirmed that the species listed below are suited for the location:

Serviceberry:	adapted to moist and dry soils
American Holly:	adapted to moist and dry soils
Red Maple:	adapted to moist and dry soils
Black Gum:	although known for presence in wet soils, it performs well in average soil moisture as well
Atlantic White Cedar:	changed to Eastern Red Cedar
Silky Dogwood:	although known for presence in wet soils, it performs well in average soil moisture as well
Inkberry:	adapted to moist and dry soils
Speckled Alder:	changed to Sweet Pepperbush
Elderberry:	although known for presence in wet soils, it performs well in average soil moisture as well
Hayscented Fern:	adapted to moist and dry soils
Goldenrod:	adapted to moist and dry soils
Riverbank Rye:	changed to Little Bluestem
Striped Maple:	adapted to moist and dry soils
Mapleleaf Viburnum:	adapted to moist and dry soils
Spicebush:	adapted to moist and dry soils
Hobblebush:	changed to Arrowwood Viburnum
Arrowwood Viburnum:	adapted to moist and dry soils
Gray Dogwood:	adapted to moist and dry soils
Wood Aster:	adapted to moist and dry soils
Pennsylvania Sedge:	adapted to moist and dry soils
Cinnamon Fern:	adapted to moist and dry soils
Ostrich Fern:	adapted to moist and dry soils

(b) After initial planting, the installing landscape contractor will be responsible for maintenance of the plants for 90 days. That maintenance will include weeding, watering and replacing any dead or unhealthy plants. Through the weeding process, if any species are noninvasive species, that will be noted in the maintenance records. All plants will have a 1 year replacement warranty (for any dead plants). Beyond the initial 90-day maintenance period, the

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planting area will be inspected for presence of any invasive plant species each month in the growing season. Weeds in general and invasive species particularly will be hand pulled and disposed of.

(c) The Applicant has advised the Conservation Commission that no work is proposed within Area #1 (Ryder Street) other than repaving of the street and sidewalk.

Item Number 4:

BETA Recommendation: Depict the 100-year floodplain elevation on bridge elevation drawings.

Response:

Attached is a plan prepared by Nitsch Engineering showing the bridge above the 100-year floodplain elevation. The floodplain elevation is depicted on the attached site plan and the Nitsch Engineering Plan.

Item Number 5:

BETA Recommendations:

(a) Determine whether the project will temporarily impact the FEMA Floodway and provide temporary flood control measures, if needed.

(b) Revise plans to depict the extent and elevation of the FEMA Floodway.

Response:

(a) The project will not impact the FEMA Floodway.

(b) The Floodway is confined within the Mill Brook Channel walls and has an elevation of approximately 94.8 feet at the bridge. A note indicating that the 100-year floodplain and associated floodway is confined within the channel walls has been added to the attached site plan in the approximate center of the plan under the "Mill Brook Conduit" label. See the plan prepared by Bohler Engineering.

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Item Number 6:

BETA Recommendations:

- (a) Provide streambed cross sections that depict coir fascine log installation.
- (b) Provide a streambed substrate that is more natural than riprap. The proposed streambed material should be selected based on anticipated stream velocity and could include sand and/or river stone.
- (c) Review the selected plant list to determine the appropriateness of the selected species for the proposed soil conditions to avoid the need for irrigation beyond the initial plan establishment period.

Response:

- (a) Swale cross sections showing the coir log use are provided.
- (b) Calculations are attached, demonstrating that 3" (minimum size) river stone is appropriate for the majority of the relocated Ryder Brook channel. The steeper section of channel, where it enters the property and turns near the building, will require a larger 12"-18" broken stone channel lining. The attached site plan shows the limits of both types of stone within the relocated swale.
- (c) The Applicant's landscape architect has recommended plantings that are appropriate for the proposed soil conditions. See response to Recommendation No. 3.

Item Number 7:

BETA Recommendations:

- (a) Provide an evaluation on the impacts to the AURA associated with Mill Brook.
- (b) Evaluate the potential for planting shrubs within the planting beds along the Riverwalk.

Response:

- (a) The plan titled "Existing AURA Exhibit" shows the existing AURA extending off Mill Brook. A table on the plan shows a comparison of existing vs.

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proposed pervious and impervious area calculations within the AURA for the proposed project. The amount of pervious surface within the 0-25' portion of the AURA will be increased from 2,507 sf to 4,012 sf, an increase of 1,505 sf. In the 25-100' AURA, the amount of pervious surface will be increased from 1,628 sf to 7,438 sf, an increase of 5,810 sf., resulting in a total increase of 7,315 sf of pervious area within the 0-100' buffer. The vegetated buffer adjacent to the Mill Brook, which is essentially non-existent in current conditions, will consist of 100% native, wildlife-friendly species.

(b) Shrubs are proposed in the planting space along the Mill Brook. The label referring to bulbs and perennials is out of date and has been removed.

Item Number 8:

BETA Recommendation: Provide impacts quantification as described in original comment.

Response:

See the response to Recommendation 7(a).

Item Number 9:

BETA Recommendation: Provide an evaluation that documents compliance with Section 24 – Vegetation, B through H of the Bylaw Regulations.

Response:

B. *No vegetation in a resource area protected by the Bylaw shall be damaged, extensively pruned, or removed without written approval by the Commission and in-kind replacement. Extensive pruning is defined as removal of 20% or more of limbs or growth. For extensive pruning or removal of vegetation because of an Imminent Risk to Public Health and Safety, in-kind replacement shall be to the extent practicable as determined by the Commission (See Section 9 of these Regulations for Emergency Certification).*

All of the vegetation proposed to be removed will be replaced in-kind with native species. Most of the existing vegetation is non-native invasive species. Only two trees will be removed, and they will be replaced with multiple individual trees.

C. *“In-kind replacement” shall refer to a combination of species type and surface area as defined by the area delineated by the drip line of the affected plant(s).*

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"In-kind" means the same type and quantity of plant species that was removed, extensively pruned, or damaged, unless compelling evidence is presented in writing that explain why the resource area values under the Bylaw are promoted through an alternative proposal, and planted within the same resource area or another resource area located in close proximity on the project site. Notwithstanding the foregoing, only non-invasive plant species shall be planted as replacements.

See the Landscaping Plan for details of the proposed replacement of existing vegetation to be removed. All proposed species are native and there will be a significant increase in quantity of woody and herbaceous vegetation.

D. *The criteria for removal of vegetation follow. In all instances, the reasons for removal must be expressed in writing before the removal. In administering this standard, the Commission shall consider species selection, location and timing of the plantings.*

(1) *Health of Vegetation*

Vegetation in a state of irreversible decay, or undesirable vegetation present as a result of unintentional lack of maintenance may be offered as a reason(s) for removal.

(2) *Bank or Slope Stabilization*

A bank or slope stabilization plan requires the restructuring of soils occupied by vegetation.

(3) *Invasive Species*

The vegetation being removed is an aggressive, invasive, or non-native species as confirmed by wetlands scientist or as listed on a wetlands plant list acceptable to the Commission, such as, but not limited to that published by the United States Fish and Wildlife Service.

(4) *Ecological Restoration*

The vegetation is being removed as part of a project whose primary purpose is to restore or otherwise improve the natural capacity of a resource area to protect and sustain the interests of the Bylaw; also called Resource Area Enhancement.

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(5) *Vegetation Replacement*

The vegetation is being removed and replaced elsewhere on the project site or within the same resource area, only if the Commission determines that such removal and replacement does not decrease the resource area's contribution to the resource area values protected by the Bylaw.

(6) *Imminent Risk to Public Health and Safety*

The vegetation is an imminent risk to public health or safety or property as confirmed in writing and submitted to the Commission by the Arlington Tree Warden, Fire Department Representative, Public Safety Officer, or a certified arborist.

The vegetation proposed to be removed falls under categories (2), (3), (4) and (5).

E. *Application for Removal. For all projects, the application for vegetation removal shall be submitted as part of the application for permit or Notice of Intent as described by the Bylaw and these regulations. At a minimum, the application will include: . . .*

A detailed landscaping plan has been provided, demonstrating that the project is likely to comply with Section 24 of the Wetland Regulations. A detailed "application for removal" will be submitted to the Conservation Commission during the Notice of Intent for the project. The application will comply with this regulation to the greatest extent practicable.

F. *The Commission may require one or more of the following measures to protect vegetation during work:*

See the response to 10(a) and (b) below.

G. *The Commission may require the placement of permanent bounds (e.g., granite or metal) to demarcate all or part of a resource area or vegetation mitigation area.*

The locations of replacement plantings are documented on multiple plans, and have nearby permanent structures or other site features allowing them to be identified without the need for additional permanent bounds.

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H. The requirements of this section shall be met commensurate with the nature, scope, type and cost of the proposed project or activity.

The nature, scope, type and cost of the proposed vegetation replacement is commensurate with the proposed project.

Item Number 10:

BETA Recommendations:

- (a) Specific tree protection measures where proposed on the Demolition Plans.
- (b) Review fence location to ensure no interference with existing trees.
- (c) Include shrub plantings in the landscaped beds along the Riverwalk to help increase shading along Mill Brook.

Response:

- (a) A revised demolition plan showing protection of the existing trees in the southeast corner of the site is attached. The details as to the tree protection is on previously submitted plan sheet C-602.
- (b) Construction fencing will be installed around the project site at or just inside the property line, which will restrict access to the trees growing along the Mill Brook on the adjacent property. Tree limbs overhanging the project will be pruned to provide a minimum of 8' clearance from the existing grade and any dead wood will be removed for safety reasons. The proposed railing that follows Mill Brook will avoid the trees along Mill Brook on the adjacent property.
- (c) See Recommendation 7(b).

Comments on Environmental Waivers Requested

The Applicant concurs that a waiver for Section 4 – Definition of Stream is not required.

The Applicant believes that a waiver as to Section 20C – Bank Performance Standards and Section 22 – Land Under Waterbodies Performance Standards is required. Though the newly configured Ryder Brook has not been designated as a resource area, the existing Ryder Brook is a resource area.

The Applicant is of the opinion that it has met the standards in Section 24 of the Regulation by significant improvements proposed.

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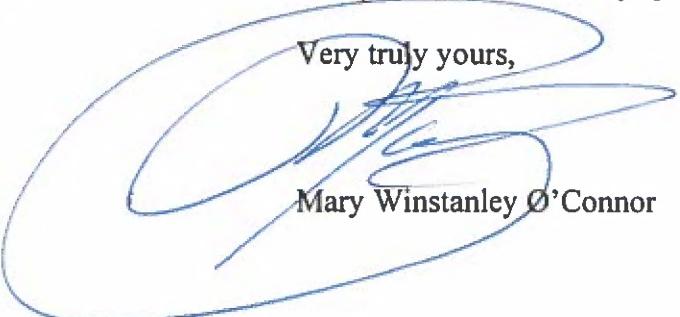
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The Applicant requires a waiver of the 25' no disturbance in AURA performance standards as it is not practical to restore the area and it would be a burden on the abutters whose yards have encroached into the area. The Applicant has provided some mitigation as detailed on the plans. Accordingly, a waiver from Section 25D is required.

Goddard Consulting advises that though the Applicant has improved the AURA, a waiver from Section 25C is required. Likewise, it suggests that the waiver of Section 4(b) 200 foot undisturbed vegetation in resource area is necessary. No reply is necessary to the waivers requested to Sections 10, 11 and 16 of the Bylaw. The Applicant is requesting the waivers set out as to these matters.

The Applicant thanks BETA and the Board for its analysis and work on this project.

Very truly yours,


Mary Winstanley O'Connor

MWO/ccg
Enclosures
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cc: Susan Chapnick, Chairperson (via email)
Patrick Hanlon, Vice Chairperson (via email)
Jenny Raitt, Director of Planning and Economic Development (via email)
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